

Daily News

EPA Signs Final Florida Nutrient Criteria After Court Declines Extension

Posted: November 30, 2012

Clarification Appended

EPA has signed the final version of its controversial numeric nutrient criteria for Florida waters after a federal judge declined an agency request to give officials more time to allow the state to craft its own criteria, though the agency is likely to face continuing litigation on the issue.

One environmentalist attorney called the rule's promulgation a "big deal," but declined to comment further.

The agency Nov. 30 approved Florida's own criteria for springs, lakes and streams, saying they were "virtually identical" to those in the agency's controversial 2010 measure it had proposed to impose on the state. But the agency also put in place its own standards for remaining waters, including coastal and estuarine waters, while it works with the Florida Department of Environmental Protection (FDEP) to craft state criteria.

Agency lawyers filed a Nov. 30 notice informing a federal district court in Florida that it had complied with the court's mandate to sign the rules by that date. The agency "has taken all actions required by the Consent Decree entered in this case," Florida Wildlife Federation, et al. v. EPA, which ordered EPA to adopt numeric nutrient criteria for state waters by the end of November, the notice says. The action came after the court did not act on an agency petition, filed Nov. 21, asking the court to extend the deadline for signing the rule by 120 days.

The action sets an important precedent highlighting agency efforts to force states to adopt strict numeric criteria for nutrients. Under the Clean Water Act (CWA), states draft and EPA approves water quality criteria -- risk-based limits that regulators use, along with waterbodies' designated uses and antidegradation policy -- to set enforceable water quality standards and permit limits. But most states have long opted for "narrative standards," which allow discharges to continue so long as there is no discernible effect on the waterbody, rather than a stricter numeric standard. States' use of narrative criteria appears to make it difficult to comply with CWA's requirement that states determine whether a discharger has a "reasonable potential to cause, or contribute to an excursion beyond applicable water quality criteria." In a bid to advance the issue, environmentalists successfully sued EPA to force the agency

to set numeric criteria for Florida waters.

But after EPA's proposed criteria for Florida drew widespread opposition, agency officials encouraged Florida and other states' officials to craft their own limits.

EPA was long expected to approve Florida's criteria after acting water chief Nancy Stoner said in a 2011 memo to the Florida Department of Environmental Protection (FDEP) that the rule was adequately protective under the CWA and that it would approve the rule if it is submitted to the agency as drafted.

Now that the state measure has been approved by EPA, it will likely curtail long-running state and industry opposition to agency efforts to set federal criteria for state waters. It could also be a model for how EPA plans to address similar criteria that it is pressing other states to develop to limit low dissolved oxygen levels and other impairments caused by excessive nutrient levels.

'Poison Pill'

But environmentalists have long opposed the state's plan and are likely to oppose EPA's approval especially after state legislators added language to the proposal before submitting it to EPA that seeks to block the rule from being implemented if the agency revises or amends it during its ongoing review – what many say is a "poison pill" that could complicate the agency's response. It would also require EPA to certify that the state-crafted numeric criteria, which as written do apply to a majority of the state's lakes, ponds and flowing inland waters, are sufficient to protect water quality throughout the state.

If EPA agreed to the state's demand, the environmentalist attorney said before EPA's announcement, "There would be no numeric criteria, designed by the state or EPA, for any waters not covered by the state rules."

But while EPA approved the state-crafted criteria, it has also put its own rules into effect for the waters excluded by the state's submission. And the agency has indicated that the state will craft a new round of numeric criteria for the waters excluded by the rules it developed this year. In its Nov. 21 request to extend the deadline for its own criteria, EPA said it has had "discussions with FDEP concerning FDEP's tentative plan to adopt new or revised water quality standards relevant to the control of nutrients for waters not covered by FDEP's rule."

Still, a second environmentalist attorney says that rather than forcing the agency to adopt Florida's criteria wholesale, the "poison pill" could provide an excuse for EPA to disregard the 2011 memo and modify the state's rules, on the argument that Stoner's promise to approve the submission applied only to the language under consideration at that time.

And environmentalists have indicated that they still oppose the state's proposed criteria. In unsuccessful state level challenges to Florida's plan, environmentalists have charged that the state's numeric interpretation would only list a waterbody as impaired if the secondary effects of excessive levels of nutrients like toxic algae were present -- essentially requiring a waterbody to be polluted before it could be protected, rather than keeping excessive levels of nutrients out of the water in the first place.

The second attorney says environmentalists do not know what action what they are hoping for. "We're not entirely thrilled with EPA's [proposed Florida nutrient] rules, which is why we've been in court over them. At least now we'll get a better idea of what they actually wanted to do," the attorney says. -- David LaRoss

Editor's Note: This story has been updated, and documents added, to reflect details of EPA's final decision.

Daily News

EPA Signs Logging Road Rule Despite Calls To Await High Court Review

Posted: November 30, 2012

EPA has signed its final rule regulating stormwater discharges from logging roads, brushing aside calls from the logging industry to await the outcome of a Supreme Court case, slated for oral arguments Dec. 5, on whether the roads can be regulated under the Clean Water Act (CWA).

While Administrator Lisa Jackson signed the final rule Nov. 30 regulating the roads, the agency emphasized that it is regulating the roads under a section of the water law that provides regulators with broad flexibilities to address stormwater runoff.

"The EPA believes that stormwater discharges from forest roads, including logging roads, should be evaluated under section 402(p)(6) of the Clean Water Act because the section allows for a broad range of flexible approaches, including nonpermitting approaches, that may be better suited to address the complexity of forest road ownership, management, and use," the rule states. The final rule is identical to a version the agency proposed last August, which will require road owners to seek coverage under either the Stormwater Multisector General Permit or individual National Pollutant Discharge Elimination System permits.

The rule explicitly states that silvicultural activities are not "industrial stormwater activities" requiring individual discharge permits under the agency's Phase I stormwater rules. The exception does not include rock crushing, gravel washing, log sorting and log storage facilities -- all of which the agency has previously subjected to Phase I permitting requirements.

"[T]he Agency did not intend logging roads themselves to be regulated as industrial facilities and its view has not changed since EPA first issued the Phase I stormwater rule. The EPA is revising that rule to clarify the Agency's original intent," the rule says.

The agency's regulation says it is intended to cancel "any on-the-ground impact" from the appellate ruling under review by the high court, which reversed the agency's decades-old interpretation of its rules -- that channeled stormwater from roadside culverts falls under the umbrella of "natural runoff," and therefore does not require permits. The 2010 decision by the U.S. Court of Appeals for the 9th Circuit in Northwest Environmental Defense Center (NEDC) v. Brown undercut the agency's silviculture rule, which exempts "natural runoff" from such roads from permit requirements.

But EPA has finalized the rule despite the fact that the Supreme Court is preparing to review the 9th Circuit's decision, with appeals consolidated under the title Decker v. NEDC. Oral argument in the case is scheduled for Dec. 3.

Logging industry groups called the issuance of the rule premature, reiterating past calls that EPA should await a ruling from the high court before taking action. "While [the American Forest & Paper Association (AF&PA)] understands EPA's goal in issuing today's final rule, we maintain that any rulemaking in advance of a Supreme Court decision is premature," the group said in a statement. It said the Supreme Court could vacate the 9th circuit decision, alleviating the need for EPA's rule, "or it could rule in a manner that requires EPA to further revise this rulemaking," AF&PA President and CEO Donna Harman said in a Nov. 30 press release.

The forest products industry also has backed legislation in Congress that would amend the CWA to explicitly exempt silvicultural activities from CWA permitting requirements. A bill introduced by Rep. Jaime Herrera Beutler (R-WA) was approved by the House Transportation & Infrastructure Committee before the August recess.

EPA adopting combination of state, federal water pollution rules for Florida after court fight 12/03/2012 Washington Post - Online DC

Supreme Court to decide whether logging roads are industrial or agricultural pollution sources 12/03/2012

Washington Post - Online DC

BRISTOL BAY: Broun doubles down on EPA criticism 12/02/2012 Environment & Energy Daily DC

Florida water rule a split decision for both sides 12/02/2012 Seattle Post-Intelligencer WA

HYDRAULIC FRACTURING: Officials considering state-federal partnership on water oversight -- former EPA regulator

12/02/2012 EnergyWire DC

High Court to decide how logging roads regulated 12/01/2012 Sacramento Bee - Online, The CA

As sewage flows after storm, flaws in system are exposed 11/30/2012 Honolulu Star-Advertiser - Online HI

Compass: Tribal leaders fight DNR to preserve a way of life 11/30/2012 Anchorage Daily News - Online AK

East metro: 3M, Met Council agree that Mississippi is not 'impaired' [Pioneer Press, St. Paul, Minn.] 11/30/2012

Bloomberg Businessweek - Online NY

EPA adopts water pollution rules for Florida 11/30/2012 Fresno Bee - Online CA

Feds adopt state water pollution rules for Florida 11/30/2012 Sacramento Bee - Online, The CA

Feds impose tough water pollution rules on Florida 11/30/2012 Miami Herald - Online, The FL

Fracking Secrets by Thousands Keep Americans Clueless on Wells 11/30/2012 San Francisco Chronicle - Online

CA

Myriad fracking secrets keep Americans clueless on wells 11/30/2012 Pittsburgh Post-Gazette - Online PA

Fracking secrets by thousands keep Americans clueless on wells 12/03/2012 News Journal - Online DE

Oregon logging road pollution case heads to U.S. Supreme Court 12/02/2012 Oregonian - Online, The OR

News Headline: EPA adopting combination of state, federal water pollution rules for Florida after court fight |

Outlet Full Name: Washington Post - Online

News Text: TALLAHASSEE, Fla. — The U.S. Environmental Protection Agency will adopt a combination of state and federal water pollution rules for Florida after a lengthy court fight with environmental groups that favored the federal version, agency officials said late Friday.

EPA Administrator Lisa Jackson initially filed a brief notice in federal court in Tallahassee saying she had taken all actions required by a consent decree that the agency had entered with the environmental groups. They had accused the agency of failing to follow its own regulations by not requiring Florida to adopt more stringent standards for such nutrients as nitrogen and phosphorus.

But on Friday evening, the agency issued a news release saying it had also approved the state rules for some waterways. Earthjustice lawyer David Guest, who represents the environmental groups, said he was pleased because the federal rule will apply to about 82,000 of 100,000 miles of waterways and the state rule will cover the remaining 18,000. EPA regional water protection director Jim

Giattina said the area covered by the federal rule might be smaller.

"We're approving Florida's rules and we're proposing numbers that will fill the gap that may exist in Florida's rules," Giattina said. He said further changes may be made after additional discussions with the state.

The environmental groups opposed the state's approach as being too weak to stop pollution that's being blamed for algae blooms, which are clogging Florida waterways. But Guest said he's still happy with the outcome.

"This is the reddest letter day of them all," Guest said.

Opponents argued the federal rules would be too expensive to implement and favored the state's approach.

"Our diverse coalition of agriculture, employers, local government, utilities and others supports clean water and believes Florida knows what's best for Florida," spokesman Ryan Banfill wrote in an email. "That's why the coalition has always supported Florida-specific standards developed by Florida scientists and proposed by the state DEP as a more cost effective way to promote water quality in our state."

Both proposals set numerical limits on nutrients that come from such sources as fertilizer, animal waste and, sewage effluent, which feed the toxic, slimy algae blooms. They can kill fish and make people sick.

EPA officials said they have determined that the state's new method of setting those limits in lakes, springs, streams and estuaries is technically and scientifically sound and more effective than the Florida's existing method.

Florida, like most states, currently has only vague standards. Putting numerical limits on how much pollution is allowed is expected to strengthen enforcement.

The numerical limits in the state's rules, except for South Florida, are virtually identical to the federal proposal, EPA officials said.

The agency plans to seek public comment on the state rules and has scheduled a public information session for Jan. 17-18 in Tampa and web-based public hearings for Jan. 22-24.

U.S. District Judge Robert Hinkle had pushed back the deadline for action several times since the consent decree was signed three years ago, but when he ordered a six-month extension in June, he said it would be the last delay.

The June order reset the deadline for Friday. EPA last week asked for another delay of 120 days to continue talks with state officials on their alternative proposal, but Jackson filed her notice after Hinkle took no action on the latest request for more time.

The groups that sued the EPA included Florida Wildlife Federation, the Conservancy of Southwest Florida, the Environmental Confederation of Southwest Florida, St. Johns Riverkeeper and the Sierra Club.

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News Headline: Supreme Court to decide whether logging roads are industrial or agricultural pollution sources |

Outlet Full Name: Washington Post - Online

News Text: GRANTS PASS, Ore. — The U.S. Supreme Court will decide whether to switch gears on more than 30 years of regulating the muddy water running off logging roads into rivers.

At issue: Should the U.S. Environmental Protection Agency keep considering it the same as water running off a farm field, or start looking at it like a pipe coming out of a factory?

The case being heard Monday in Washington, D.C., was originated by a small environmental group in Portland, the Northwest Environmental Defense Center.

It sued the Oregon Department of Forestry over roads on the Tillamook State Forest that drain into salmon streams. The lawsuit argued that the Clean Water Act specifically says water running through the kinds of ditches and culverts built to handle storm water

runoff from logging roads is a point source of pollution when it flows directly into a river, and requires the same sort of permit that a factory needs.

"We brought this out of a perceived sense of unfairness," said Mark Riskedahl, director of the center. "Every other industrial sector across the country had to get this sort of permit for stormwater discharge," and the process has been very effective at reducing pollution.

The pollution running off logging roads, most of them gravel or dirt, is primarily muddy water stirred up by trucks. Experts have long identified sediment dumped in streams as harmful to salmon and other fish.

The center lost in U.S. District Court in Portland, but won in the 9th U.S. Circuit Court of Appeals in San Francisco. The Oregon Department of Forestry and Georgia Pacific-West appealed to the Supreme Court, and 31 states threw in with them.

The timber industry wants to keep things the way they are, with no permits for roads built under a system of best management practices. They contend requiring permits would cost timberland owners and logging companies too much money and thousands of jobs.

"EPA has been absolutely clear since 1976 in its rules and briefs explaining those rules and what it has done," said timber industry lawyer Timothy Bishop. "Never once has it required a permit for discharges from forest service roads. It has been absolutely clear that is a bad idea."

The Obama administration petitioned the Supreme Court not to take the case, arguing that while the appeals court ruling was wrong, Congress and EPA were taking steps to correct the situation already.

Last May, EPA formally proposed to revise storm water regulations to say logging roads don't need the point-source pollution permits that factories must get, and has gone ahead despite the court's decision to take the case. Congress enacted a temporary continuation of the status quo.

Jeffrey Fisher, a professor at Stanford Law School and co-director of its Supreme Court Litigation Clinic, is arguing the case for environmentalists. He said the court took the case after 31 states joined the timber industry in petitioning for appeal.

He said the Clean Water Act requires industrial activity to get a permit for stormwater that runs through ditches, pipes and channels.

"Industrialized logging operations with all the heavy machinery that takes place on lands at issue here is, we think, pretty clearly industrial in nature," he said. "That's the end of the case, right there."

Bishop said regulations developed by EPA and enforced by the states without permits have done a great job since 1976, and changing them to require EPA to issue permits would cost too much in jobs and money.

The National Alliance of Forest Owners commissioned studies that concluded new permits would cost landowners and logging operators nationwide upwards of \$1.1 billion in administrative costs.

Riskedahl said the timber industry has grossly exaggerated the costs. Each state can issue blanket permits to cover national forests, state forests, and private timberlands, as well as the logging and trucking companies that operate on them. It would be similar to the permit the Oregon Department of Transportation already has for state highways. Cleaning up the water requires low-tech solutions, such as putting roads on ridges, so ditches flow to the forest floor, instead of rivers.

"There is a cost to corporate entities to comply with the permits. The result is pollution reduction and jobs for local companies (working on logging roads)," he said.

In legal terms, Bishop said the three judges from the 9th Circuit ignored court rules that they should defer to the expertise of the regulating agency, EPA, which has consistently found logging road runoff is a non-point source of pollution, Bishop said. In 1976 it adopted the Silvicultural Rule, exempting logging from point-source permits.

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News Headline: BRISTOL BAY: Broun doubles down on EPA criticism |

Outlet Full Name: Environment & Energy Daily

News Text: A senior member of the House Science Committee is putting pressure on U.S. EPA to reveal a timeline and cost details associated with the ongoing study of potential large-scale mining in southwestern Alaska.

Rep. Paul Broun (R-Ga.), chairman of the panel's Investigations and Oversight Subcommittee, is zeroing in on the newly released report by a dozen independent scientists who were tasked by EPA with reviewing the agency's draft watershed assessment. He expressed confusion at EPA's decision to submit the pending finished product for review by another body of experts.

"Beyond the fundamental question of the need for and usefulness of a second peer review of a hypothetical mining scenario, the abrupt and unexplained announcement of the second panel raises concerns regarding the process through which EPA plans to establish and guide the panel," Broun wrote EPA Administrator Lisa Jackson in a letter yesterday.

At issue in the ongoing debate is Pebble LP's potential gold and copper mine in the Bristol Bay watershed, a valuable salmon fishery. EPA critics want the agency to butt out and allow the company to go through the normal permitting channels.

EPA released the peer review report earlier this month on the same day that agency leaders briefed the Science Committee on its ongoing efforts. Now Broun wants Jackson to detail plans for what he called a second peer review and for answering concerns raised in the first one (E&E Daily, Nov. 27). The House Oversight Committee is also looking into the issue.

"During these trying fiscal times, the EPA is spending an undisclosed sum of money on a report that is needlessly based on a hypothetical mine scenario," Broun said. "Unfortunately, it appears as though EPA is happy to continue spending scarce resources on an assessment of questionable value, all in order to create additional, unnecessary, and duplicative regulatory burdens."

Supporters of EPA's review, including sport fishing interests and lobby group Trout Unlimited, call many of Broun's concerns "red herring" arguments. They say, for example, that EPA scientists have relied on preliminary mine plans outlined in financial statements (E&ENews PM, Nov. 9).

The agency itself defends the process as a means to securing scientific integrity and protecting the environment. It said this month, "EPA's peer review process is open, transparent, and is designed to gather expert, knowledgeable input to ensure that EPA's products are based upon defensible, high quality science."

"EPA chose to launch the Bristol Bay Assessment to determine the significance of Bristol Bay's ecological resources and evaluate the potential impacts of future large-scale mining on these resources," the agency said. "EPA will use the results of this assessment to inform the consideration of options consistent with our role under the Clean Water Act."

[Click here to read Broun's letter.](#)

News Headline: Florida water rule a split decision for both sides |

Outlet Full Name: Seattle Post-Intelligencer

News Text: Published 6:13 a.m., Sunday, December 2, 2012

TALLAHASSEE, Fla. (AP) — The federal Environmental Protection Agency's split decision on new water pollution rules gives both sides in the contentious debate something to cheer and jeer about.

The EPA late Friday said it was approving rules drafted by the state for about 15 percent of Florida's 100,000 miles of waterways while adopting its own rules for the rest.

Environmental groups that sued the agency favor the EPA rules and contend the state's alternative proposal is too weak to halt pollution that's causing toxic algae blooms that are choking the state's waters.

Agriculture, business and utility interests as well as Florida officials favor the state's proposal, arguing the EPA rules would be too

expensive to implement.

The agency, though, left the door open to later applying the state rules to more waterways.

News Headline: HYDRAULIC FRACTURING: Officials considering state-federal partnership on water oversight -- former EPA regulator |

Outlet Full Name: EnergyWire

News Text: As the use of hydraulic fracturing grows more prevalent in the United States, state and federal regulators are taking the opportunity to develop a partnership for overseeing water use, according to a former federal water regulator.

States have a natural role in issuing permits and writing regulations, but the federal government could provide a broader perspective on the nexus of energy and environmental concerns, said Ben Grumbles, president of the U.S. Water Alliance and former assistant administrator for water at U.S.EPA.

"There is a role for the federal government not just for providing science, but for regulatory guidance on how you meet energy and environmental needs together," he said. "It is also a positive development that states are stepping up and developing more regulatory programs and oversight on fracturing operations."

Grumbles said many states, like Texas and Colorado, have strengthened disclosure requirements for chemicals used in water during fracturing, in which chemical-laced fluid is blasted into shale rock pockets to coax out trapped fuels.

He expects the federal government's role in water regulatory oversight will focus mostly on research and education, but he noted that it could also oversee state programs.

"The Clean Water Act currently has a role to provide overall guidelines for state-run permit programs for surface water challenges," Grumbles said. "I don't see the EPA getting out of that business or Congress dismissing them from the Clean Water Act."

Although some have called for Congress to revisit the 2005 Energy Policy Act, which exempted water for fracturing from Clean Water Act regulations, Grumbles said he doesn't "see that happening anytime in the near future."

While there are strong arguments about state -- rather than federal -- regulation of water for use in fracturing, Grumbles said it is unknown how states would come up with the funds to provide such services.

"The more states step up for tracking operations, there are legitimate concerns about their funding, and where the funding will come from," he said (Emily Pickrell, Fuel Fix, Nov. 29). -- PK

News Headline: High Court to decide how logging roads regulated |

Outlet Full Name: Sacramento Bee - Online, The

News Text: (Miami Herald, Wichita Eagle)

GRANTS PASS, Ore. -- The U.S. Supreme Court will decide whether to switch gears on more than 30 years of regulating the muddy water running off logging roads into rivers.

At issue: Should the U.S. Environmental Protection Agency keep considering that muddy water the same as water running off a farm field, or start looking at it like a pipe coming out of a factory?

The case being heard Monday in Washington, D.C., originated from a small environmental group in Portland, the Northwest Environmental Defense Center. It sued the Oregon Department of Forestry over roads on the Tillamook State Forest that drain into salmon streams.

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News Headline: As sewage flows after storm, flaws in system are exposed |

Outlet Full Name: Honolulu Star-Advertiser - Online

News Text: EAST ROCKAWAY, N.Y. » The water flowing out of the Bay Park sewage plant here in Nassau County is a greenish-gray soup of partially treated human waste — a sign of an environmental and public health disaster that officials say will be one of the most enduring and expensive effects of Hurricane Sandy.

In the month since the storm, hundreds of millions of gallons of raw and partially treated sewage from crippled treatment plants have flowed into waterways in New York and New Jersey, exposing flaws in the region's wastewater infrastructure that could take several years and billions of dollars to fix.

In New York alone, Gov. Andrew M. Cuomo has estimated that \$1.06 billion will be needed just for repairs to treatment plants. But

authorities now acknowledge that they will have to do far more.

Motors and electrical equipment must be raised above new flood levels, and circuitry must be made waterproof. Dams and levees may have to be built at some treatment plants to keep the rising waters at bay, experts say.

Failure to do so could leave large swaths of the population vulnerable to public health and environmental hazards in future storms, experts said.

"You're looking at significant expenditures of money to make the plants more secure," said John Cameron, an engineer specializing in wastewater treatment facilities who is chairman of the Long Island Regional Planning Council. "There is no Band-Aid for this," Cameron said. "This is the new normal."

At least six sewage plants in the New York region shut down completely during the storm, and many more were crippled by storm surges that swamped motors and caused short circuits in electrical equipment.

In New Jersey, workers at the Passaic Valley Sewerage Commission plant, the fifth-largest facility in the country, had to evacuate as floodwaters surged in and wastewater gushed out.

The Middlesex County Utility Authority plant in Sayreville, N.J., pumped about 75 million gallons of raw sewage a day into Raritan Bay for nearly a week before power was restored, said Larry Ragonese, a spokesman for the New Jersey Department of Environmental Protection.

Operations at both plants have yet to be fully restored.

Bay Park, a sprawling complex off Hewlett Bay near the New York City border, serves 40 percent of Nassau County.

When Hurricane Sandy arrived, its force blindsided workers. They had spent days shoring up the facility with emergency measures but did not anticipate the surge.

In less than 30 minutes, engines for the plant's main pumping system were under 12 feet of water, and sewage began to back up and overflow into homes. In one low-lying neighborhood, a plume of feces and wastewater burst through the street like a geyser.

The plant shut down for more than 50 hours, and about 200 million gallons of raw sewage flowed into channels and waterways.

"Never ever, ever has this happened before," said Michael Martino, a spokesman for the Nassau County Department of Public Works.

On Thursday, Martino said that the plant was now fully operational and that the treatment of sewage was improving day by day.

Two other plants on Long Island, in Lawrence and Long Beach, were also crippled.

And the Rockaway Wastewater Treatment Plant in Queens had significant damage. Others, including the Cedar Creek Water Pollution Control Plant, which serves another 40 percent of Nassau County, and Bergen Point, another large plant in Suffolk County, escaped relatively unscathed.

Still, even those plants may not fare so well in the future, said Cameron of the Long Island Regional Planning Council.

Almost all facilities in the region are situated close to sea level and are vulnerable to storm surges, he said. Many were built decades ago, when populations were smaller and weather less inclement.

Even before Hurricane Sandy, the Bay Park plant in Nassau County needed new equipment.

When it was completed in 1949, the population of Nassau County was half what it is today. The plant now serves 550,000 residents and has struggled to keep pace with demand.

During heavy rains, there are occasional sewage leaks, particularly in low-lying areas, residents say. Last year, the county was fined \$1.5 million for, among other violations, illegally pumping about 3.5 million gallons of partially treated sewage into East Rockaway Channel.

For the residents of Barnes Avenue in Baldwin, a low-lying stretch about three miles from the Bay Park plant, the failure during Hurricane Sandy was the culmination of their worst fears, though hardly a surprise.

They said they had long complained to Nassau County about sewage that flooded streets and occasionally homes during heavy rains. After Tropical Storm Irene sent human waste splashing onto lawns and front porches, residents said, the county bolted manhole covers shut to prevent them from opening.

During Hurricane Sandy, the manhole covers stayed in place, but the force of wastewater rushing up through the ground around them washed away part of the road.

"With Sandy it was, I hate the cliché, the perfect storm," said John Malinowski, 54, a graphic designer who lives with his wife in a two-story home on Barnes Avenue. "When Bay Park failed and they couldn't get the sewage out of the system, that's when this became a real catastrophic event here."

On a visit this week, the smell of excrement still hung over the tidy neighborhood as workers in white hazmat suits attempted to decontaminate homes. Sewage, mixed with four- to five-foot-high floodwaters, infiltrated floors and walls, and many homes must be stripped to their wooden frames to be fully decontaminated. Some may not be salvageable.

Elsewhere, officials are still evaluating the environmental impact of leakages.

In the Raritan Bay, the Hudson River, and the waters around the Bay Park plant, the Environmental Protection Agency has detected dangerous levels of fecal coliform, a bacteria associated with human waste, and has urged people to avoid contact with the water. Bans on shell fish have been imposed in some regions.

Eventually the tides will flush much of the wastewater into the Atlantic Ocean where it will break down. There is concern though, that some contamination could go into the sediment and be buried, particularly around Bay Park, where the waters are flushed out more slowly.

"This is the largest sewage release in the history of Long Island," said Adrienne Esposito, executive director of Citizens Campaign for the Environment, an advocacy group. "This brings to a new level the public health threat and the duration for the contamination, which will have a serious adverse impact on our beaches and our bays."

Deals site LivingSocial cuts 400 jobs worldwide - 12:00 a.m.

Leeward Coast water main break prompts calls for conservation - 09:27 p.m.

Boy, 3, falls from second-story window in Kaneohe - 09:10 p.m.

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NYPD officer's act of kindness goes viral - 09:15 a.m.

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Moscow blanketed by major early snowfall - 02:15 a.m.

Chinese AIDS patients fight hospital rejections - 02:15 a.m.

News Headline: Compass: Tribal leaders fight DNR to preserve a way of life |

Outlet Full Name: Anchorage Daily News - Online

News Text: As our leaders gather at the 22nd annual Bureau of Indian Affairs Tribal Provider's Conference this week in Anchorage, I know they are tackling some of Alaska's toughest issues with our communities' best interest at heart. The theme of the conference is "Collaborating to Strengthen Alaska's Tribal Nations," which is exactly what has been going on in Bristol Bay, where I am from. I'm so thankful for our tribal leaders from Bristol Bay who work so hard to represent our values and help move our people forward every day, especially when it comes to protecting our lands and waters.

We in Bristol Bay are fortunate that not only do the vast majority of our tribal governments fight to protect our subsistence way of life from incompatible development like Pebble Mine, but our village corporations and regional Bristol Bay Native Corporation also share this vision. They all recognize the survival of our culture depends on a clean and healthy environment. Our tribes are fortunate enough to share support from many other allies like commercial fishermen and sportsmen as well. We all agree, healthy Bristol Bay salmon runs are the cornerstone of our regional economy and our culture.

Given the strength of Bristol Bay's tribal leadership, it was no surprise when six of our tribes, along with commercial fishing and sportsmen's organizations, filed a legal challenge to the State of Alaska Department of Natural Resource's 2005 Bristol Bay Area Management Plan. The 2005 plan provides no protection for our subsistence resources, and reduced habitat safeguards in the 12 million acre planning area by an incredible 94 percent.

In fact, lands previously set aside for fish, wildlife and the protection of Bristol Bay's renewable resources became "prohibited uses" whenever they conflict with mining. This is a complete gutting of the original 1984 management plan, which balanced development and habitat conservation. DNR has become so comfortable with making decisions behind our backs they went as far to say in the 2005 plan that mineral development "is expected to be authorized."

It's quite clear DNR intends for Bristol Bay to be turned into a mining district and yet expects the world to believe otherwise. "Wait and see" is all we hear out of state officials when we express our concerns, but we in Bristol Bay know better. We have been waiting a long time for someone to take our concerns seriously and we have seen plans submitted by Pebble partner Northern Dynasty to DNR and the Securities and Exchange Commission for what could be the world's largest copper and gold mine, giant tailings lakes and dams and dewatered streams.

All of this would sit at the headwaters of our planet's greatest remaining sockeye salmon fishery and the centerpiece of our culture and sustainable regional economy.

DNR has eviscerated the management plan for our area; they have printed statements predicting the eventual permitting of Pebble and have stated publicly that saying no to Pebble is not an option they take seriously. Despite this, I believe tribal leaders and others will be active and engaged in a new round of public comment spurred by the lawsuit against DNR.

But our leaders and others are not willing to invest only in a process that has so utterly failed tribes and our local communities' in the past. That is why our wise leaders have petitioned EPA to use their authority under the Clean Water Act's section 404(c) to

protect our fishery, our water and our people.

So quyana (thank you) to our tribal leaders meeting in Anchorage this week. Quyana for holding the state accountable for decisions that will have huge impacts on our lives and culture, and for reaching out to the EPA in order to protect what is most important to us -- our land and our water.

Alannah Hurley is a lifelong Bristol Bay resident, a commercial/subsistence fisherman and an indigenous rights activist.

News Headline: East metro: 3M, Met Council agree that Mississippi is not 'impaired' [Pioneer Press, St. Paul, Minn.] |

Outlet Full Name: Bloomberg Businessweek - Online

News Text: Nov. 27--Two legal adversaries have found something they can agree on -- the Mississippi River is clean enough.

The Metropolitan Council and 3M Co. have asked the state of Minnesota to declare that the pollution of the river by 3M's chemicals wasn't as bad as previously thought.

But at the same time, the Met Council is suing 3M for polluting the river.

The Met Council last year joined a lawsuit filed by the state attorney general, seeking compensation from 3M for pollution of the state's waters. That suit cites 3M chemicals in the Mississippi as a prime example of pollution.

In separate letters, 3M and the council have asked the Minnesota Pollution Control Agency to remove the river from the list of "impaired" waterways.

"It was 3M's position years ago, and it is today, that there was never any evidence that it should have been impaired," said Bill Brewer, partner in the 3M law firm Bickel & Brewer.

Now the Met Council has joined 3M, he said. "Both parties have reached the conclusion that this isn't right," Brewer said. "It isn't right for the people in the metro area to think Pool 2 has any reason to be impaired."

Pool 2 is a 33-mile section of the river that runs from the Ford Dam in St. Paul to Hastings.

But any change in the river's status won't happen until after April 2014, said Shannon Lotthammer, director of the environmental analysis and outcomes division for the state environmental agency.

She said the federal Environmental Protection Agency

makes the final ruling about impairment of the nation's waterways. The state department will submit a recommendation by April 2014, and the federal agency's ruling is expected months after that.

Several years ago, the Minnesota Department of Health said that fish in Pool 2 were unsafe to eat more than once a month. The problem was the 3M chemical PFOS, or perfluorooctane sulfonate, found in the fish.

But recently, the PFOS levels in Minnesota have been dropping. In June, the Health Department took the only remaining species of fish -- the freshwater drum -- off the list of fish that should be eaten no more than once a month.

3M and the Met Council agree that the end of the fish warnings should mean the river is no longer impaired. But that's about all they agree on.

The state lawsuit says 3M should be liable for damage to the environment because it manufactured PFOS.

Traces of PFOS have been found in the drinking water of 60,000 residents from Oakdale to Hastings, as well as in several lakes in the metro area.

But in court documents, 3M has argued that since it stopped making PFOS in 2002, it is no longer a significant source of PFOS

pollution. The company has spent more than \$100 million cleaning the chemical out of groundwater and drinking water.

So where is the PFOS coming from? Sewage treatment plants, says 3M.

The Met Council operates plants on the Mississippi and its tributaries, and 3M says wastewater is a continuing source of the PFOS.

Filtering the traces of PFOS from wastewater would be too costly, the Met Council said.

In an emailed response to questions on Monday, Nov. 26, Bonnie Kollodge, a spokesperson for the Met Council, said it would cost \$1 billion to reduce the PFOS in the river by upgrading the treatment plants.

The Met Council has pointed out that the treated wastewater is five times as clean as drinking water in terms of PFOS levels. The pollution is measured in parts per trillion -- for perspective, a trillion seconds equals about 32,000 years.

The Met Council argues that the sewage plant cleanup would not have an "appreciable impact" on water quality. Instead, it says, 3M should be forced to reduce PFOS by further treatments of discharges into the river.

PFOS is one of a family of chemicals made by 3M, starting in the 1940s. They were used for making household products including Teflon, Scotchgard stain repellent and fire extinguisher foam.

3M legally dumped the chemicals in landfills in Washington County until the 1970s. In 2004, traces of the chemicals were found in groundwater in much of southwestern Washington County.

Megadoses of the chemicals have been shown to cause thyroid problems, birth defects and cancer in laboratory mice. The chemicals have been detected in animals and people around the world.

But despite hundreds of studies and tests, the chemicals have not been shown to cause health problems in people at any dose. 3M has maintained that the levels in the environment are harmless to people and animals.

Bob Shaw can be reached at 651-228-5433. Follow him at twitter.com/BshawPP.

News Headline: EPA adopts water pollution rules for Florida |

Outlet Full Name: Fresno Bee - Online

News Text: (Seattle Times, Wichita Eagle)

TALLAHASSEE, Fla. -- The U.S. Environmental Protection Agency will adopt a combination of state and federal water pollution rules for Florida after a lengthy court fight with environmental groups that favored the federal version, agency officials said late Friday.

EPA Administrator Lisa Jackson initially filed a brief notice in federal court in Tallahassee saying she had taken all actions required by a consent decree that the agency had entered with the environmental groups. They had accused the agency of failing to follow its own regulations by not requiring Florida to adopt more stringent standards for such nutrients as nitrogen and phosphorus.

But on Friday evening, the agency issued a news release saying it had also approved the state rules for some waterways. Earthjustice lawyer David Guest, who represents the environmental groups, said he was pleased because the federal rule will apply to about 82,000 of 100,000 miles of waterways and the state rule will cover the remaining 18,000. EPA regional water protection director Jim Giattina said the area covered by the federal rule might be smaller.

"We're approving Florida's rules and we're proposing numbers that will fill the gap that may exist in Florida's rules," Giattina said. He said further changes may be made after additional discussions with the state.

The environmental groups opposed the state's approach as being too weak to stop pollution that's being blamed for algae blooms, which are clogging Florida waterways. But Guest said he's still happy with the outcome.

"This is the reddest letter day of them all," Guest said.

Opponents argued the federal rules would be too expensive to implement and favored the state's approach.

"Our diverse coalition of agriculture, employers, local government, utilities and others supports clean water and believes Florida knows what's best for Florida," spokesman Ryan Banfill wrote in an email. "That's why the coalition has always supported Florida-specific standards developed by Florida scientists and proposed by the state DEP as a more cost effective way to promote water quality in our state."

Both proposals set numerical limits on nutrients that come from such sources as fertilizer, animal waste and, sewage effluent, which feed the toxic, slimy algae blooms. They can kill fish and make people sick.

EPA officials said they have determined that the state's new method of setting those limits in lakes, springs, streams and estuaries is technically and scientifically sound and more effective than the Florida's existing method.

Florida, like most states, currently has only vague standards. Putting numerical limits on how much pollution is allowed is expected to strengthen enforcement.

The numerical limits in the state's rules, except for South Florida, are virtually identical to the federal proposal, EPA officials said.

The agency plans to seek public comment on the state rules and has scheduled a public information session for Jan. 17-18 in Tampa and web-based public hearings for Jan. 22-24.

U.S. District Judge Robert Hinkle had pushed back the deadline for action several times since the consent decree was signed three years ago, but when he ordered a six-month extension in June, he said it would be the last delay.

The June order reset the deadline for Friday. EPA last week asked for another delay of 120 days to continue talks with state officials on their alternative proposal, but Jackson filed her notice after Hinkle took no action on the latest request for more time.

The groups that sued the EPA included Florida Wildlife Federation, the Conservancy of Southwest Florida, the Environmental Confederation of Southwest Florida, St. Johns Riverkeeper and the Sierra Club.

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News Headline: Feds adopt state water pollution rules for Florida |

Outlet Full Name: Sacramento Bee - Online, The

News Text: TALLAHASSEE, Fla. -- The federal government is adopting state water pollution rules for Florida instead of its own version favored by environmental groups that had sued the agency.

Environmental Protection Agency Administrator Lisa Jackson on Friday filed a brief statement in federal court in Tallahassee saying she had taken all actions required by a consent decree EPA entered with the environmental groups.

That triggered claims of victory by the environmentalists, but Friday evening the agency issued a news release saying it had instead adopted the state rules that the environmental groups had criticized as being too weak to stop pollution blamed for algae blooms that are choking Florida waterways.

The state rules are favored by business, agriculture and utility interests that opposed the federal proposal, claiming it would be too expensive to implement.

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News Headline: Feds impose tough water pollution rules on Florida |

Outlet Full Name: Miami Herald - Online, The

News Text: TALLAHASSEE, Fla. -- The federal government ordered tough water pollution rules for Florida on Friday in a victory for environmental groups after a lengthy court battle.

Environmental Protection Agency Administrator Lisa Jackson filed a notice in federal court in Tallahassee saying she has complied with a consent decree requiring adoption of the rules.

They are designed to curtail pollution from such sources as fertilizer, animal waste and, sewage effluent that have been blamed for causing toxic, slimy algae blooms that have choked Florida's waterways. The blooms can kill fish and make people sick.

State officials as well as agriculture, business and utility interests opposed the rules, arguing they'd be too expensive to implement. They had touted an alternate proposal offered by the state Department of Environmental Protection, which environmentalists said was too weak.

"This is absolutely everything we hoped for," said Earthjustice lawyer David Guest, who represented environmental groups in the court case. "This is the reddest letter day of them all."

U.S. District Judge Robert Hinkle had pushed back the deadline for action several times since the consent decree was signed three years ago, but when he ordered a six-month extension in June he said it would be the last delay.

The June order reset the deadline for Friday. EPA last week asked for another delay of 120 days to continue talks with state officials on their alternative proposal, but Jackson filed her notice after Hinkle took no action on the latest request for more time.

The notice will trigger the establishment of numeric nutrient criteria for some 100,000 miles of Florida waterways and 4,000 square miles of estuaries. Standards previously had been set for lakes and springs.

Guest said the case has national implications because most states, like Florida, currently have only vague standards. Putting numbers on how much pollution is allowed is expected to greatly strengthen enforcement.

"EPA's response here will set the standard for the nation," Guest said. "What we've lacked is a set of quantifiable numbers that are basically a speed limit sign to make the law clear and enforceable."

The Florida Wildlife Federation, the Conservancy of Southeast Florida, the Environmental Confederation of Southwest Florida, St. Johns Riverkeeper and the Sierra Club sued EPA.

They alleged the agency had failed to enforce its own regulations requiring states to establish numeric criteria for such nutrients as nitrogen and phosphorus.

News Headline: Fracking Secrets by Thousands Keep Americans Clueless on Wells |

Outlet Full Name: San Francisco Chronicle - Online

News Text: Nov. 30 (Bloomberg) -- A subsidiary of Nabors Industries Ltd. pumped a mixture of chemicals identified only as "EXP-F0173-11" into a half-dozen oil wells in rural Karnes County, Texas, in July.

Few people outside Nabors, the largest onshore drilling contractor by revenue, know exactly what's in that blend. This much is clear: One ingredient, an unidentified solvent, can cause damage to the kidney and liver, according to safety information about the product that Michigan state regulators have on file.

A year-old Texas law that requires drillers to disclose chemicals they pump underground during hydraulic fracturing, or "fracking," was powerless to compel transparency for EXP- F0173-11. The solvent and several other ingredients in the product are considered a trade secret by Superior Well Services, the Nabors subsidiary. That means they're exempt from disclosure.

Drilling companies in Texas, the biggest oil-and-natural gas producing state, claimed similar exemptions about 19,000 times this year through August, according to their chemical- disclosure reports. Data from the documents were compiled by Pivot Upstream Group, a Houston-based firm that studies the energy industry, and analyzed by Bloomberg News. Nationwide, companies withheld one out of every five chemicals they used in fracking, a separate examination of a broader database shows.

Trade-secret exemptions block information on more than five ingredients for every well in Texas, undermining the statute's purpose of informing people about chemicals that are hauled through their communities and injected thousands of feet beneath their homes and farms, said Lon Burnam, a Democratic state representative and a co-author of the law.

Truck-Sized Hole

"This disclosure bill has a hole big enough to drive a Mack truck through," Burnam says of the law, which he called "much compromised legislation."

"Is it meaningless because there are so many exemptions?" he asked. "I'm afraid it may be."

The Texas disclosure bill marks a growing effort by the oil and gas industry to address public concerns about fracking, a drilling technique in which millions of gallons of water, sand and chemicals are pumped underground to free up more hydrocarbons. While the method has unlocked vast new sources of energy, safety questions center on the hundreds of chemicals used -- many of them known carcinogens. The federal Environmental Protection Agency has little authority to regulate fracking; Congress decided in 2005 that the bureau wouldn't oversee the practice.

Flaming Faucets

The 2010 documentary film "Gasland" showed homeowners near fracked wells igniting the water that flowed from their faucets. A year later, the EPA linked fracking to contaminated drinking water in Pavillion, Wyoming. The agency is retesting the Wyoming wells. A separate report from the U.S. Geological Survey this year confirmed the environmental agency's initial finding; it detected levels of methane, ethane, diesel compounds and phenol, which the EPA had identified in 2011.

Companies including Houston-based Halliburton Co. have embraced the Texas law as a model that "provides an enormous amount of information to the general public" while protecting trade secrets from competitors, said Susie McMichael, a company spokeswoman.

"Without such protection, companies would have no incentive to develop and put into use new technologies that are both environmentally beneficial and more effective," McMichael said in an e-mail.

Largest Withholders

In August, the largest well-servicing companies that worked in Texas withheld the most information about frack jobs. Wells serviced by Halliburton and Houston-based Baker Hughes Inc., the second- and third-largest oilfield services companies respectively, contained more than nine secrets per well according to reports filed by the companies. Frack jobs by Superior Well Services, the Nabors subsidiary, omitted the most information with more than 32 secrets per well.

For neighbors of fracked wells, the omissions mean they can't use the disclosures to watch for frack fluids migrating into creeks, rivers and aquifers, because they don't know what to look for, says Adam Briggie, who is chairman of a citizen's group in Denton, Texas, called the Denton Stakeholder Drilling Advisory Group.

"We can't test to see what is coming into the environment," says Briggie, 35, who also works as an assistant professor of philosophy at the University of North Texas in Denton. "If frack fluids are so harmless, why do they hold onto these trade secrets so strongly?"

Property Rights

Dennis Smith, a Nabors spokesman, didn't reply to several e-mails and phone messages requesting comment. Baker Hughes provides information on its fracking fluids "in a format that minimizes intellectual-property-rights risks to our products," according to a statement e-mailed by company spokeswoman Pamela Easton.

Halliburton's McMichael noted that the Texas rules were written with input from environmental groups, including Environmental Defense Fund, a New York-based environmental group whose president, Fred Krupp, has called the supply of natural gas that may be liberated by fracking "a potential game changer."

The Texas rules could "help industry do something that industry has trouble doing for itself -- gain the public's trust," wrote Scott Anderson, a senior policy adviser to EDF, in an October 2011 letter to the Texas Railroad Commission, which regulates oil and gas drilling in the state.

Watered Down

Yet the regulations "could wind up hurting public confidence rather than helping," particularly if companies report fewer chemicals than the public expects, Anderson wrote. In an interview this week, Anderson said that while EDF considers the Texas rule "landmark legislation" that won industry support for disclosing chemicals, the group doesn't support the final version because it was watered down.

Industry lobbyists made it clear that they wanted strong trade-secret protections, “but they didn't say it would be this heavily utilized,” said Cyrus Reed, acting director of the Sierra Club's Lone Star chapter, who worked with companies to develop the rule. “It is disappointing to see this many trade secrets being claimed.”

The law, signed by Governor Rick Perry, a Republican, in June 2011, requires companies to disclose their fracking chemicals on FracFocus, a national website that the energy industry helped create in 2011 to allow for voluntary disclosure. Bloomberg News reported in August that more than 40 percent of wells fracked in eight major drilling states last year had been omitted from the voluntary site.

Permitted Secrets

Oil and gas companies are permitted to withhold disclosure of chemicals and their concentrations in any product that they claim to be a trade secret under the Texas law. Such claims can be challenged by state regulators and landowners of well sites or adjacent parcels.

Several other states that require disclosure of fracking chemicals, including Louisiana, Montana, New Mexico and North Dakota, also leave it up to energy companies to determine what chemicals can be labeled secrets. North Dakota's rule requires companies to report fracking chemicals to FracFocus, beginning last April.

“We require whatever FracFocus requires,” said Alison Ritter, a spokeswoman for the state Department of Mineral Resources' Oil and Gas Division.

The FracFocus website states that chemicals should be disclosed unless they're a trade secret, as defined by the U.S. Occupational Safety and Health Administration. The operators of FracFocus, which is supported by funds from the industry, don't check trade-secret claims or offer a way to its force blindsided workers. They had spent days shoring up the facility with emergency measures but did not anticipate the surge.

In less than 30 minutes, engines for the plant's main pumping system were under 12 feet of water, and sewage began to back up and overflow into homes. In one low-lying neighborhood, a plume of feces and wastewater burst through the street like a geyser.

The plant shut down for more than 50 hours, and about 200 million gallons of raw sewage flowed into channels and waterways.

“Never ever, ever has this happened before,” said Michael Martino, a spokesman for the Nassau County Department of Public Works.

On Thursday, Martino said that the plant was now fully operational and that the treatment of sewage was improving day by day.

Two other plants on Long Island, in Lawrence and Long Beach, were also crippled.

And the Rockaway Wastewater Treatment Plant in Queens had significant damage. Others, including the Cedar Creek Water Pollution Control Plant, which serves another 40 percent of Nassau County, and Bergen Point, another large plant in Suffolk County, escaped relatively unscathed.

Still, even those plants may not fare so well in the future, said Cameron of the Long Island Regional Planning Council.

Almost all facilities in the region are situated close to sea level and are vulnerable to storm surges, he said. Many were built decades ago, when populations were smaller and weather less inclement.

Even before Hurricane Sandy, the Bay Park plant in Nassau County needed new equipment.

When it was completed in 1949, the population of Nassau County was half what it is today. The plant now serves 550,000 residents and has struggled to keep pace with demand.

During heavy rains, there are occasional sewage leaks, particularly in low-lying areas, residents say. Last year, the county was fined \$1.5 million for, among other violations, illegally pumping about 3.5 million gallons of partially treated sewage into East Rockaway Channel.

For the residents of Barnes Avenue in Baldwin, a low-lying stretch about three miles from the Bay Park plant, the failure during

Hurricane Sandy was the culmination of their worst fears, though hardly a surprise.

They said they had long complained to Nassau County about sewage that flooded streets and occasionally homes during heavy rains. After Tropical Storm Irene sent human waste splashing onto lawns and front porches, residents said, the county bolted manhole covers shut to prevent them from opening.

During Hurricane Sandy, the manhole covers stayed in place, but the force of wastewater rushing up through the ground around them washed away part of the road.

"With Sandy it was, I hate the cliché, the perfect storm," said John Malinowski, 54, a graphic designer who lives with his wife in a two-story home on Barnes Avenue. "When Bay Park failed and they couldn't get the sewage out of the system, that's when this became a real catastrophic event here."

On a visit this week, the smell of excrement still hung over the tidy neighborhood as workers in white hazmat suits attempted to decontaminate homes. Sewage, mixed with four- to five-foot-high floodwaters, infiltrated floors and walls, and many homes must be stripped to their wooden frames to be fully decontaminated. Some may not be salvageable.

Elsewhere, officials are still evaluating the environmental impact of leakages.

In the Raritan Bay, the Hudson River, and the waters around the Bay Park plant, the Environmental Protection Agency has detected dangerous levels of fecal coliform, a bacteria associated with human waste, and has urged people to avoid contact with the water. Bans on shell fish have been imposed in some regions.

Eventually the tides will flush much of the wastewater into the Atlantic Ocean where it will break down. There is concern though, that some contamination could go into the sediment and be buried, particularly around Bay Park, where the waters are flushed out more slowly.

"This is the largest sewage release in the history of Long Island," said Adrienne Esposito, executive director of Citizens Campaign for the Environment, an advocacy group. "This brings to a new level the public health threat and the duration for the contamination, which will have a serious adverse impact on our beaches and our bays."

Deals site LivingSocial cuts 400 jobs worldwide - 12:00 a.m.

Leeward Coast water main break prompts calls for conservation - 09:27 p.m.

Boy, 3, falls from second-story window in Kaneohe - 09:10 p.m.

2 men held in alleged robbery of Keeaumoku area bar - 06:51 p.m.

Motorcyclist dies in crash on Hawaii island - 06:30 p.m.

Winning tickets sought in \$588M Powerball jackpot - 10:21 a.m.

Planet closest to sun harbors ice, scientists say - 09:42 a.m.

NYPD officer's act of kindness goes viral - 09:15 a.m.

Man tracks down alleged thieves in Manoa - 08:53 a.m.

Retailers report weak sales gains for November - 08:33 a.m.

Monk seal 'Honey Girl' ready for release - 07:10 a.m.

Rate on 30-year mortgage ticks up - 05:06 a.m.

Lindsay Lohan arrested, charged with assault in NYC - 04:33 a.m.

NJ spruce lights up as Rockefeller Center tree - 04:06 a.m.

Murdoch's papers, UK media condemned in phone-hacking report - 02:15 a.m.

Congo rebels retreat to Sake - 02:15 a.m.

In Israel, Bosnia war crimes suspect loses appeal - 02:15 a.m.

Syria rebels kill ruling party official with bomb - 02:15 a.m.

Moscow blanketed by major early snowfall - 02:15 a.m.

Chinese AIDS patients fight hospital rejections - 02:15 a.m.

News Headline: Compass: Tribal leaders fight DNR to preserve a way of life |

Outlet Full Name: Anchorage Daily News - Online

News Text: As our leaders gather at the 22nd annual Bureau of Indian Affairs Tribal Provider's Conference this week in Anchorage, I know they are tackling some of Alaska's toughest issues with our communities' best interest at heart. The theme of the conference is "Collaborating to Strengthen Alaska's Tribal Nations," which is exactly what has been going on in Bristol Bay, where I am from. I'm so thankful for our tribal leaders from Bristol Bay who work so hard to represent our values and help move our people forward every day, especially when it comes to protecting our lands and waters.

We in Bristol Bay are fortunate that not only do the vast majority of our tribal governments fight to protect our subsistence way of life from incompatible development like Pebble Mine, but our village corporations and regional Bristol Bay Native Corporation also share this vision. They all recognize the survival of our culture depends on a clean and healthy environment. Our tribes are fortunate enough to share support from many other allies like commercial fishermen and sportsmen as well. We all agree, healthy Bristol Bay salmon runs are the cornerstone of our regional economy and our culture.

Given the strength of Bristol Bay's tribal leadership, it was no surprise when six of our tribes, along with commercial fishing and sportsmen's organizations, filed a legal challenge to the State of Alaska Department of Natural Resource's 2005 Bristol Bay Area Management Plan. The 2005 plan provides no protection for our subsistence resources, and reduced habitat safeguards in the 12 million acre planning area by an incredible 94 percent.

In fact, lands previously set aside for fish, wildlife and the protection of Bristol Bay's renewable resources became "prohibited uses" whenever they conflict with mining. This is a complete gutting of the original 1984 management plan, which balanced development and habitat conservation. DNR has become so comfortable with making decisions behind our backs they went as far to say in the 2005 plan that mineral development "is expected to be authorized."

It's quite clear DNR intends for Bristol Bay to be turned into a mining district and yet expects the world to believe otherwise. "Wait and see" is all we hear out of state officials when we express our concerns, but we in Bristol Bay know better. We have been waiting a long time for someone to take our concerns seriously and we have seen plans submitted by Pebble partner Northern Dynasty to DNR and the Securities and Exchange Commission for what could be the world's largest copper and gold mine, giant tailings lakes and dams and dewatered streams.

All of this would sit at the headwaters of our planet's greatest remaining sockeye salmon fishery and the centerpiece of our culture and sustainable regional economy.

DNR has eviscerated the management plan for our area; they have printed statements predicting the eventual permitting of Pebble and have stated publicly that saying no to Pebble is not an option they take seriously. Despite this, I believe tribal leaders and others will be active and engaged in a new round of public comment spurred by the lawsuit against DNR.

But our leaders and others are not willing to invest only in a process that has so utterly failed tribes and our local communities' in the past. That is why our wise leaders have petitioned EPA to use their authority under the Clean Water Act's section 404(c) to protect our fishery, our water and our people.

So quyana (thank you) to our tribal leaders meeting in Anchorage this week. Quyana for holding the state accountable for decisions that will have huge impacts on our lives and culture, and for reaching out to the EPA in order to protect what is most important to us -- our land and our water.

Alannah Hurley is a lifelong Bristol Bay resident, a commercial/subsistence fisherman and an indigenous rights activist.

News Headline: East metro: 3M, Met Council agree that Mississippi is not 'impaired' [Pioneer Press, St. Paul, Minn.] |

Outlet Full Name: Bloomberg Businessweek - Online

News Text: Nov. 27--Two legal adversaries have found something they can agree on -- the Mississippi River is clean enough.

The Metropolitan Council and 3M Co. have asked the state of Minnesota to declare that the pollution of the river by 3M's chemicals wasn't as bad as previously thought.

But at the same time, the Met Council is suing 3M for polluting the river.

The Met Council last year joined a lawsuit filed by the state attorney general, seeking compensation from 3M for pollution of the state's waters. That suit cites 3M chemicals in the Mississippi as a prime example of pollution.

In separate letters, 3M and the council have asked the Minnesota Pollution Control Agency to remove the river from the list of "impaired" waterways.

"It was 3M's position years ago, and it is today, that there was never any evidence that it should have been impaired," said Bill Brewer, partner in the 3M law firm Bickel & Brewer.

Now the Met Council has joined 3M, he said. "Both parties have reached the conclusion that this isn't right," Brewer said. "It isn't right for the people in the metro area to think Pool 2 has any reason to be impaired."

Pool 2 is a 33-mile section of the river that runs from the Ford Dam in St. Paul to Hastings.

But any change in the river's status won't happen until after April 2014, said Shannon Lotthammer, director of the environmental analysis and outcomes division for the state environmental agency.

She said the federal Environmental Protection Agency

makes the final ruling about impairment of the nation's waterways. The state department will submit a recommendation by April 2014, and the federal agency's ruling is expected months after that.

Several years ago, the Minnesota Department of Health said that fish in Pool 2 were unsafe to eat more than once a month. The problem was the 3M chemical PFOS, or perfluorooctane sulfonate, found in the fish.

But recently, the PFOS levels in Minnesota have been dropping. In June, the Health Department took the only remaining species of fish -- the freshwater drum -- off the list of fish that should be eaten no more than once a month.

3M and the Met Council agree that the end of the fish warnings should mean the river is no longer impaired. But that's about all they agree on.

The state lawsuit says 3M should be liable for damage to the environment because it manufactured PFOS.

Traces of PFOS have been found in the drinking water of 60,000 residents from Oakdale to Hastings, as well as in several lakes in the metro area.

But in court documents, 3M has argued that since it stopped making PFOS in 2002, it is no longer a significant source of PFOS pollution. The company has spent more than \$100 million cleaning the chemical out of groundwater and drinking water.

So where is the PFOS coming from? Sewage treatment plants, says 3M.

The Met Council operates plants on the Mississippi and its tributaries, and 3M says wastewater is a continuing source of the PFOS.

Filtering the traces of PFOS from wastewater would be too costly, the Met Council said.

In an emailed response to questions on Monday, Nov. 26, Bonnie Kollodge, a spokesperson for the Met Council, said it would cost \$1 billion to reduce the PFOS in the river by upgrading the treatment plants.

The Met Council has pointed out that the treated wastewater is five times as clean as drinking water in terms of PFOS levels. The pollution is measured in parts per trillion -- for perspective, a trillion seconds equals about 32,000 years.

The Met Council argues that the sewage plant cleanup would not have an "appreciable impact" on water quality. Instead, it says, 3M should be forced to reduce PFOS by further treatments of discharges into the river.

PFOS is one of a family of chemicals made by 3M, starting in the 1940s. They were used for making household products including Teflon, Scotchgard stain repellent and fire extinguisher foam.

3M legally dumped the chemicals in landfills in Washington County until the 1970s. In 2004, traces of the chemicals were found in groundwater in much of southwestern Washington County.

Megadoses of the chemicals have been shown to cause thyroid problems, birth defects and cancer in laboratory mice. The chemicals have been detected in animals and people around the world.

But despite hundreds of studies and tests, the chemicals have not been shown to cause health problems in people at any dose. 3M has maintained that the levels in the environment are harmless to people and animals.

Bob Shaw can be reached at 651-228-5433. Follow him at twitter.com/BshawPP.

News Headline: EPA adopts water pollution rules for Florida |

Outlet Full Name: Fresno Bee - Online

News Text: (Seattle Times, Wichita Eagle)

TALLAHASSEE, Fla. -- The U.S. Environmental Protection Agency will adopt a combination of state and federal water pollution rules for Florida after a lengthy court fight with environmental groups that favored the federal version, agency officials said late Friday.

EPA Administrator Lisa Jackson initially filed a brief notice in federal court in Tallahassee saying she had taken all actions required by a consent decree that the agency had entered with the environmental groups. They had accused the agency of failing to follow its own regulations by not requiring Florida to adopt more stringent standards for such nutrients as nitrogen and phosphorus.

But on Friday evening, the agency issued a news release saying it had also approved the state rules for some waterways. Earthjustice lawyer David Guest, who represents the environmental groups, said he was pleased because the federal rule will apply to about 82,000 of 100,000 miles of waterways and the state rule will cover the remaining 18,000. EPA regional water protection director Jim Giattina said the area covered by the federal rule might be smaller.

"We're approving Florida's rules and we're proposing numbers that will fill the gap that may exist in Florida's rules," Giattina said. He said further changes may be made after additional discussions with the state.

The environmental groups opposed the state's approach as being too weak to stop pollution that's being blamed for algae blooms, which are clogging Florida waterways. But Guest said he's still happy with the outcome.

"This is the reddest letter day of them all," Guest said.

Opponents argued the federal rules would be too expensive to implement and favored the state's approach.

"Our diverse coalition of agriculture, employers, local government, utilities and others supports clean water and believes Florida knows what's best for Florida," spokesman Ryan Banfill wrote in an email. "That's why the coalition has always supported Florida-specific standards developed by Florida scientists and proposed by the state DEP as a more cost effective way to promote water quality in our state."

Both proposals set numerical limits on nutrients that come from such sources as fertilizer, animal waste and, sewage effluent, which feed the toxic, slimy algae blooms. They can kill fish and make people sick.

EPA officials said they have determined that the state's new method of setting those limits in lakes, springs, streams and estuaries is technically and scientifically sound and more effective than the Florida's existing method.

Florida, like most states, currently has only vague standards. Putting numerical limits on how much pollution is allowed is expected to strengthen enforcement.

The numerical limits in the state's rules, except for South Florida, are virtually identical to the federal proposal, EPA officials said.

The agency plans to seek public comment on the state rules and has scheduled a public information session for Jan. 17-18 in Tampa and web-based public hearings for Jan. 22-24.

U.S. District Judge Robert Hinkle had pushed back the deadline for action several times since the consent decree was signed three years ago, but when he ordered a six-month extension in June, he said it would be the last delay.

The June order reset the deadline for Friday. EPA last week asked for another delay of 120 days to continue talks with state officials on their alternative proposal, but Jackson filed her notice after Hinkle took no action on the latest request for more time.

The groups that sued the EPA included Florida Wildlife Federation, the Conservancy of Southwest Florida, the Environmental Confederation of Southwest Florida, St. Johns Riverkeeper and the Sierra Club.

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News Headline: Feds adopt state water pollution rules for Florida |

Outlet Full Name: Sacramento Bee - Online, The

News Text: TALLAHASSEE, Fla. -- The federal government is adopting state water pollution rules for Florida instead of its own version favored by environmental groups that had sued the agency.

Environmental Protection Agency Administrator Lisa Jackson on Friday filed a brief statement in federal court in Tallahassee saying she had taken all actions required by a consent decree EPA entered with the environmental groups.

That triggered claims of victory by the environmentalists, but Friday evening the agency issued a news release saying it had instead adopted the state rules that the environmental groups had criticized as being too weak to stop pollution blamed for algae blooms that are choking Florida waterways.

The state rules are favored by business, agriculture and utility interests that opposed the federal proposal, claiming it would be too expensive to implement.

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News Headline: Feds impose tough water pollution rules on Florida |

Outlet Full Name: Miami Herald - Online, The

News Text: TALLAHASSEE, Fla. -- The federal government ordered tough water pollution rules for Florida on Friday in a victory for environmental groups after a lengthy court battle.

Environmental Protection Agency Administrator Lisa Jackson filed a notice in federal court in Tallahassee saying she has complied with a consent decree requiring adoption of the rules.

They are designed to curtail pollution from such sources as fertilizer, animal waste and, sewage effluent that have been blamed for causing toxic, slimy algae blooms that have choked Florida's waterways. The blooms can kill fish and make people sick.

State officials as well as agriculture, business and utility interests opposed the rules, arguing they'd be too expensive to implement. They had touted an alternate proposal offered by the state Department of Environmental Protection, which environmentalists said

was too weak.

"This is absolutely everything we hoped for," said Earthjustice lawyer David Guest, who represented environmental groups in the court case. "This is the reddest letter day of them all."

U.S. District Judge Robert Hinkle had pushed back the deadline for action several times since the consent decree was signed three years ago, but when he ordered a six-month extension in June he said it would be the last delay.

The June order reset the deadline for Friday. EPA last week asked for another delay of 120 days to continue talks with state officials on their alternative proposal, but Jackson filed her notice after Hinkle took no action on the latest request for more time.

The notice will trigger the establishment of numeric nutrient criteria for some 100,000 miles of Florida waterways and 4,000 square miles of estuaries. Standards previously had been set for lakes and springs.

Guest said the case has national implications because most states, like Florida, currently have only vague standards. Putting numbers on how much pollution is allowed is expected to greatly strengthen enforcement.

"EPA's response here will set the standard for the nation," Guest said. "What we've lacked is a set of quantifiable numbers that are basically a speed limit sign to make the law clear and enforceable."

The Florida Wildlife Federation, the Conservancy of Southeast Florida, the Environmental Confederation of Southwest Florida, St. Johns Riverkeeper and the Sierra Club sued EPA.

They alleged the agency had failed to enforce its own regulations requiring states to establish numeric criteria for such nutrients as nitrogen and phosphorus.

News Headline: Fracking Secrets by Thousands Keep Americans Clueless on Wells |

Outlet Full Name: San Francisco Chronicle - Online

News Text: Nov. 30 (Bloomberg) -- A subsidiary of Nabors Industries Ltd. pumped a mixture of chemicals identified only as "EXP-F0173-11" into a half-dozen oil wells in rural Karnes County, Texas, in July.

Few people outside Nabors, the largest onshore drilling contractor by revenue, know exactly what's in that blend. This much is clear: One ingredient, an unidentified solvent, can cause damage to the kidney and liver, according to safety information about the product that Michigan state regulators have on file.

A year-old Texas law that requires drillers to disclose chemicals they pump underground during hydraulic fracturing, or "fracking," was powerless to compel transparency for EXP-F0173-11. The solvent and several other ingredients in the product are considered a trade secret by Superior Well Services, the Nabors subsidiary. That means they're exempt from disclosure.

Drilling companies in Texas, the biggest oil-and-natural gas producing state, claimed similar exemptions about 19,000 times this year through August, according to their chemical-disclosure reports. Data from the documents were compiled by Pivot Upstream Group, a Houston-based firm that studies the energy industry, and analyzed by Bloomberg News. Nationwide, companies withheld one out of every five chemicals they used in fracking, a separate examination of a broader database shows.

Trade-secret exemptions block information on more than five ingredients for every well in Texas, undermining the statute's purpose of informing people about chemicals that are hauled through their communities and injected thousands of feet beneath their homes and farms, said Lon Burnam, a Democratic state representative and a co-author of the law.

Truck-Sized Hole

"This disclosure bill has a hole big enough to drive a Mack truck through," Burnam says of the law, which he called "much compromised legislation."

"Is it meaningless because there are so many exemptions?" he asked. "I'm afraid it may be."

The Texas disclosure bill marks a growing effort by the oil and gas industry to address public concerns about fracking, a drilling technique in which millions of gallons of water, sand and chemicals are pumped underground to free up more hydrocarbons. While the method has unlocked vast new sources of energy, safety questions center on the hundreds of chemicals used -- many of them known carcinogens. The federal Environmental Protection Agency has little authority to regulate fracking; Congress decided in 2005 that the bureau wouldn't oversee the practice.

Flaming Faucets

The 2010 documentary film "Gasland" showed homeowners near fracked wells igniting the water that flowed from their faucets. A year later, the EPA linked fracking to contaminated drinking water in Pavillion, Wyoming. The agency is retesting the Wyoming wells. A separate report from the U.S. Geological Survey this year confirmed the environmental agency's initial finding; it detected levels of methane, ethane, diesel compounds and phenol, which the EPA had identified in 2011.

Companies including Houston-based Halliburton Co. have embraced the Texas law as a model that "provides an enormous amount of information to the general public" while protecting trade secrets from competitors, said Susie McMichael, a company spokeswoman.

"Without such protection, companies would have no incentive to develop and put into use new technologies that are both environmentally beneficial and more effective," McMichael said in an e-mail.

Largest Withholders

In August, the largest well-servicing companies that worked in Texas withheld the most information about frack jobs. Wells serviced by Halliburton and Houston-based Baker Hughes Inc., the second- and third-largest oilfield services companies respectively, contained more than nine secrets per well according to reports filed by the companies. Frack jobs by Superior Well Services, the Nabors subsidiary, omitted the most information with more than 32 secrets per well.

For neighbors of fracked wells, the omissions mean they can't use the disclosures to watch for frack fluids migrating into creeks, rivers and aquifers, because they don't know what to look for, says Adam Briggie, who is chairman of a citizen's group in Denton, Texas, called the Denton Stakeholder Drilling Advisory Group.

"We can't test to see what is coming into the environment," says Briggie, 35, who also works as an assistant professor of philosophy at the University of North Texas in Denton. "If frack fluids are so harmless, why do they hold onto these trade secrets so strongly?"

Property Rights

Dennis Smith, a Nabors spokesman, didn't reply to several e-mails and phone messages requesting comment. Baker Hughes provides information on its fracking fluids "in a format that minimizes intellectual-property-rights risks to our products," according to a statement e-mailed by company spokeswoman Pamela Easton.

Halliburton's McMichael noted that the Texas rules were written with input from environmental groups, including Environmental Defense Fund, a New York-based environmental group whose president, Fred Krupp, has called the supply of natural gas that may be liberated by fracking "a potential game changer."

The Texas rules could "help industry do something that industry has trouble doing for itself -- gain the public's trust," wrote Scott Anderson, a senior policy adviser to EDF, in an October 2011 letter to the Texas Railroad Commission, which regulates oil and gas drilling in the state.

Watered Down

Yet the regulations "could wind up hurting public confidence rather than helping," particularly if companies report fewer chemicals than the public expects, Anderson wrote. In an interview this week, Anderson said that while EDF considers the Texas rule "landmark legislation" that won industry support for disclosing chemicals, the group doesn't support the final version because it was watered down.

Industry lobbyists made it clear that they wanted strong trade-secret protections, "but they didn't say it would be this heavily utilized," said Cyrus Reed, acting director of the Sierra Club's Lone Star chapter, who worked with companies to develop the rule. "It

is disappointing to see this many trade secrets being claimed.”

The law, signed by Governor Rick Perry, a Republican, in June 2011, requires companies to disclose their fracking chemicals on FracFocus, a national website that the energy industry helped create in 2011 to allow for voluntary disclosure. Bloomberg News reported in August that more than 40 percent of wells fracked in eight major drilling states last year had been omitted from the voluntary site.

Permitted Secrets

Oil and gas companies are permitted to withhold disclosure of chemicals and their concentrations in any product that they claim to be a trade secret under the Texas law. Such claims can be challenged by state regulators and landowners of well sites or adjacent parcels.

Several other states that require disclosure of fracking chemicals, including Louisiana, Montana, New Mexico and North Dakota, also leave it up to energy companies to determine what chemicals can be labeled secrets. North Dakota's rule requires companies to report fracking chemicals to FracFocus, beginning last April.

“We require whatever FracFocus requires,” said Alison Ritter, a spokeswoman for the state Department of Mineral Resources' Oil and Gas Division.

The FracFocus website states that chemicals should be disclosed unless they're a trade secret, as defined by the U.S. Occupational Safety and Health Administration. The operators of FracFocus, which is supported by funds from the industry, don't check trade-secret claims or offer a way to challenge an exemption.

Every Ingredient

Mike Paque, the executive director of the Groundwater Protection Council, a group of state water officials that's one of the operators of FracFocus, didn't respond to requests for an interview.

“We have successfully fulfilled our commitment ... to ensure that Texans know every single ingredient used in the hydraulic fracturing process,” said Elizabeth Ames Jones, then-chairwoman of the Texas Railroad Commission, when the law was signed last year. “Texans can be assured they will know more about what is going into the ground for fracturing than what goes into a can of soda,” she said.

Jones said this month that she's proud of what Texas did. “There are people who want to use scare tactics to drive an agenda that is not good for America,” she said in an e-mail.

Descriptions Withheld

The 19,000 trade-secret claims made in Texas this year through August hid information that included descriptions of ingredients as well as identification numbers and concentrations of the chemicals used. Overall, oil and gas companies withheld information on about one out of every seven ingredients they pumped into 3,639 wells.

In 5,000 other instances, Texas well operators failed to disclose information without saying why, filling in boxes on forms with “N/A” or “mixture,” for example, or leaving them blank. Such omissions raised the total to almost seven secrets per well from about five.

Nationally, companies claimed trade secrets or otherwise failed to identify the chemicals they used about 22 percent of the time, according to a Bloomberg News analysis of FracFocus data for 18 states. The data were compiled and released this month by SkyTruth.org, a website that uses data and digital mapping to investigate environmental issues.

Among states with at least 250 fracked wells, Oklahoma had the most unknown components; almost a third were listed as trade secrets or had no valid identification numbers attached to them.

August Sample

A smaller sample from Texas, the 370 wells that were reported in August 2012, showed that the number of secrets per well increased to almost eight when small frack jobs -- those using less than 100,000 gallons of water -- were excluded.

Although oil and gas companies submit the disclosures, the well-servicing companies they hire decide which chemicals will be disclosed or kept secret, said Halliburton's McMichael and others. The number of ingredients they withhold from disclosure can vary widely, based on the August data.

Wells serviced by Geneva-based Weatherford International Ltd. averaged 0.1 secrets per well, while Baker Hughes averaged 9.1; Halliburton, 9.3; and Superior Well Services, 32.5.

Melanie Kania, a spokeswoman for Weatherford, declined to comment.

Most of the secret chemicals are described only in general terms, such as "polymer" or "surfactant," leaving little clue about their contents, said Theo Colborn, president of The Endocrine Disruption Exchange. The Paonia, Colorado-based nonprofit, which is staffed by scientists, studies chemicals that interfere with human development and has criticized regulatory approaches to fracking.

Wyoming Approvals

Texas wasn't the first state to require disclosure of frack ingredients. In September 2010, Wyoming enacted a similar law, which requires an extra step to claim a trade secret. Companies need to apply with state regulators to explain why they need trade-secret protection for specific ingredients.

Since that rule went into effect, the Wyoming Oil and Gas Conservation Commission has approved 78 additives as trade secrets and rejected six such requests, according to Lori McCoy, a support specialist for the state agency.

Recently, more states are following the Texas model -- with an assist from industry. In December 2011, the American Legislative Exchange Council (ALEC), a Washington-based public policy organization that brings together corporations and legislators to craft bills for states, adopted model legislation that is almost identical to the Texas rule.

Exxon Sponsorship

The model bill was sponsored inside ALEC by Exxon Mobil Corp., which also advises the council from a seat on its "private enterprise board," according to ALEC documents obtained by Common Cause, a nonprofit group in Washington.

So far, legislators in eight states have proposed bills based at least in part on the ALEC model, according to Todd Wynn, the director of the organization's task force on energy, environment and agriculture.

The main author of the Texas bill said other states will tailor the language to their needs.

"Can it be better and should it be better?" asked state Representative Jim Keffer, a Republican. "Yes, and I think it will be better. People are going to use this bill as a base and then make it fit their state's attitude or their industry."

His Democratic co-author disagreed. It would be "a horrible mistake" for other states to use the Texas bill as a blueprint, Burnam said.

"Texas state government has been a wholly owned subsidiary of national oil and gas interests for a century," he says. "Do not look at it for guidance on anything related to protecting public health and safety."

--With assistance from Jim Polson in New York. Editors: John Voskuhl, Susan Warren.

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News Headline: Myriad fracking secrets keep Americans clueless on wells |

Outlet Full Name: Pittsburgh Post-Gazette - Online

News Text: A subsidiary of Nabors Industries Ltd. pumped a mixture of chemicals identified only as "EXP- F0173-11" into a half-dozen oil wells in rural Karnes County, Texas, in July.

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Trade-secret exemptions block information on more than five ingredients for every well in Texas, undermining the statute's purpose of informing people about chemicals that are hauled through their communities and injected thousands of feet beneath their homes and farms, said Lon Burnam, a Democratic state representative and a co-author of the law.

"This disclosure bill has a hole big enough to drive a Mack truck through," Mr. Burnam said of the law, which he called "much compromised legislation."

Is it "meaningless because there are so many exemptions?" he said. "I'm afraid it may be."

The Texas disclosure bill marks a growing effort by the oil and gas industry to address public concerns about fracking, a drilling technique in which millions of gallons of water, sand and chemicals are pumped underground to free up more hydrocarbons. While the method has unlocked vast new sources of energy, safety questions center on the hundreds of chemicals used -- many of them known carcinogens. The federal Environmental Protection Agency has little authority to regulate fracking; Congress decided in 2005 that the bureau wouldn't oversee the practice.

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"We can't test to see what is coming into the environment," says Mr. Briggie, 35, who also works as an assistant professor of philosophy at the University of North Texas in Denton. "If frack fluids are so harmless, why do they hold onto these trade secrets so strongly?"

When Texas lawmakers were debating the disclosure bill, industry lobbyists made it clear that they wanted strong trade-secret protections, "but they didn't say it would be this heavily utilized," said Cyrus Reed, acting director of the Sierra Club's Lone Star chapter, who worked with companies to develop the rule. "It is disappointing to see this many trade secrets being claimed."

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First Published December 1, 2012 12:00 am

News Headline: Fracking secrets by thousands keep Americans clueless on wells |

Outlet Full Name: News Journal - Online

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News Headline: Oregon logging road pollution case heads to U.S. Supreme Court |

Outlet Full Name: Oregonian - Online, The

News Text: Seven rainy springs ago, Mark Riskedahl and student volunteers from Lewis & Clark's law school visited the Tillamook State Forest to snag samples of muddy water washing into streams from roads used by logging trucks.

They succeeded: Their samples from the Trask and Kilchis rivers showed water "turbidity" from road runoff ranging from 34 to 971 times background levels, a potential threat to wild coastal coho on the endangered species list and to other fish.

"There was chocolate brown muddy water suddenly entering an otherwise clear stream," says Riskedahl, executive director of the Northwest Environmental Defense Center at Lewis & Clark.

They also stirred up a national fuss.

On Monday, the U.S. Supreme Court will hear arguments stemming from the lawsuit Riskedahl's group filed against Oregon's Department of Forestry and four timber companies after the sampling results came in.

The legal issue is whether -- as Riskedahl and the 9th Circuit Court of Appeals contend -- Clean Water Act "point source" permits should be required for active logging roads, just like they are for factories and feedlots, if the roads divert sediment-laden water into streams. Regulators have treated logging roads as non-point sources since the act passed in 1972.

Pam Martin, The Oregonian

Timber groups and Oregon officials note logging roads are covered by the state's Forest Practices Act, which includes provisions to minimize road runoff.

Treating unpaved logging roads as industrial activity would create regulatory chaos, they say, with permits, monitoring and data collection needed for thousands of miles of roads and thousands of culverts, ditches and pipelines.

It would open the floodgates for "citizen lawsuits" allowed under the Clean Water Act from groups determined to stop logging, opponents say, potentially putting 2.5 million timber jobs nationwide at risk.

And it would come as studies from Oregon's Department of Environmental Quality show forest streams have far better water quality than streams running through cities and farms.

"If the ultimate goal is water quality, I don't think you should be looking at forest land as the problem," says Kristina McNitt, president of the Oregon Forest Industries Council.

Some prominent Democrats are backing the industry, Oregon Gov. John Kitzhaber, U.S. Sen. Ron Wyden and the Obama Administration among them. So are 30 other states. On Friday, the Environmental Protection Agency revised its regulations to clarify that logging roads don't need permits, though that doesn't stop the lawsuit.

Riskedahl has allies, too, among them the American Fisheries Society and a group of former EPA and state regulators that includes Fred Hansen, who directed Oregon's DEQ for a decade.

They say industry fears are overblown. A general permit, like the Oregon Department of Transportation has for highway outfalls, would require far less effort than individual permits, they say.

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By requiring permits, "we could have greater confidence that pollution wasn't occurring, and to the extent it was, we would know how much," says Bob Van Dyk, forest policy manager for the Wild Salmon Center in Portland.

Oregon timber companies and regulators say they've made huge strides under the 1971 forest practices act, the first of its kind in the nation.

The act isn't toothless, they say. Loggers have to follow best management practices, including not building new roads along streams. Private landowners have improved 3,200 miles of forest roads since 1997, and a 2002 ODF report found more than 90 percent compliance with road rules.

Oregon has 51 stewardship foresters who can inspect logging projects, focusing on those most likely to affect streams.

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Across its operations, Hampton has added diversion culverts, relocated roads, used harder rock on roads and installed sediment filters in ditches, Zika says. If the Supreme Court backs permitting, he says, the company could have to get permits for 500 culverts between the Tillamook State Forest and its sawmill in Willamina.

Riskedahl and others remain skeptical.

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Scientists have considered unpaved logging roads the main source of sediment from logging operations since 1954, a 2008 report to EPA concluded. EPA acknowledged earlier this year that sediment-laden runoff from forest roads can "seriously degrade" streams and hurt fish, including young salmon.

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challenge an exemption.

Every Ingredient

Mike Paque, the executive director of the Groundwater Protection Council, a group of state water officials that's one of the operators of FracFocus, didn't respond to requests for an interview.

"We have successfully fulfilled our commitment ... to ensure that Texans know every single ingredient used in the hydraulic fracturing process," said Elizabeth Ames Jones, then-chairwoman of the Texas Railroad Commission, when the law was signed last year. "Texans can be assured they will know more about what is going into the ground for fracturing than what goes into a can of soda," she said.

Jones said this month that she's proud of what Texas did. "There are people who want to use scare tactics to drive an agenda that is not good for America," she said in an e-mail.

Descriptions Withheld

The 19,000 trade-secret claims made in Texas this year through August hid information that included descriptions of ingredients as well as identification numbers and concentrations of the chemicals used. Overall, oil and gas companies withheld information on about one out of every seven ingredients they pumped into 3,639 wells.

In 5,000 other instances, Texas well operators failed to disclose information without saying why, filling in boxes on forms with "N/A" or "mixture," for example, or leaving them blank. Such omissions raised the total to almost seven secrets per well from about five.

Nationally, companies claimed trade secrets or otherwise failed to identify the chemicals they used about 22 percent of the time, according to a Bloomberg News analysis of FracFocus data for 18 states. The data were compiled and released this month by SkyTruth.org, a website that uses data and digital mapping to investigate environmental issues.

Among states with at least 250 fracked wells, Oklahoma had the most unknown components; almost a third were listed as trade secrets or had no valid identification numbers attached to them.

August Sample

A smaller sample from Texas, the 370 wells that were reported in August 2012, showed that the number of secrets per well increased to almost eight when small frack jobs -- those using less than 100,000 gallons of water -- were excluded.

Although oil and gas companies submit the disclosures, the well-servicing companies they hire decide which chemicals will be disclosed or kept secret, said Halliburton's McMichael and others. The number of ingredients they withhold from disclosure can vary widely, based on the August data.

Wells serviced by Geneva-based Weatherford International Ltd. averaged 0.1 secrets per well, while Baker Hughes averaged 9.1; Halliburton, 9.3; and Superior Well Services, 32.5.

Melanie Kania, a spokeswoman for Weatherford, declined to comment.

Most of the secret chemicals are described only in general terms, such as "polymer" or "surfactant," leaving little clue about their contents, said Theo Colborn, president of The Endocrine Disruption Exchange. The Paonia, Colorado-based nonprofit, which is staffed by scientists, studies chemicals that interfere with human development and has criticized regulatory approaches to fracking.

Wyoming Approvals

Texas wasn't the first state to require disclosure of frack ingredients. In September 2010, Wyoming enacted a similar law, which requires an extra step to claim a trade secret. Companies need to apply with state regulators to explain why they need trade-secret protection for specific ingredients.

Since that rule went into effect, the Wyoming Oil and Gas Conservation Commission has approved 78 additives as trade secrets and rejected six such requests, according to Lori McCoy, a support specialist for the state agency.

Recently, more states are following the Texas model -- with an assist from industry. In December 2011, the American Legislative Exchange Council (ALEC), a Washington-based public policy organization that brings together corporations and legislators to craft bills for states, adopted model legislation that is almost identical to the Texas rule.

Exxon Sponsorship

The model bill was sponsored inside ALEC by Exxon Mobil Corp., which also advises the council from a seat on its "private enterprise board," according to ALEC documents obtained by Common Cause, a nonprofit group in Washington.

So far, legislators in eight states have proposed bills based at least in part on the ALEC model, according to Todd Wynn, the director of the organization's task force on energy, environment and agriculture.

The main author of the Texas bill said other states will tailor the language to their needs.

"Can it be better and should it be better?" asked state Representative Jim Keffer, a Republican. "Yes, and I think it will be better. People are going to use this bill as a base and then make it fit their state's attitude or their industry."

His Democratic co-author disagreed. It would be "a horrible mistake" for other states to use the Texas bill as a blueprint, Burnam said.

"Texas state government has been a wholly owned subsidiary of national oil and gas interests for a century," he says. "Do not look at it for guidance on anything related to protecting public health and safety."

--With assistance from Jim Polson in New York. Editors: John Voskuhl, Susan Warren.

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News Headline: Myriad fracking secrets keep Americans clueless on wells |

Outlet Full Name: Pittsburgh Post-Gazette - Online

News Text: A subsidiary of Nabors Industries Ltd. pumped a mixture of chemicals identified only as "EXP- F0173-11" into a half-dozen oil wells in rural Karnes County, Texas, in July.

Few people outside Nabors, the largest onshore drilling contractor by revenue, know exactly what's in that blend. This much is clear: One ingredient, an unidentified solvent, can cause damage to the kidney and liver, according to safety information about the product that Michigan state regulators have on file.

A year-old Texas law that requires drillers to disclose chemicals they pump underground during hydraulic fracturing, or "fracking," was powerless to compel transparency for EXP- F0173-11. The solvent and several other ingredients in the product are considered a trade secret by Superior Well Services, the Nabors subsidiary. That means they're exempt from disclosure.

Drilling companies in Texas, the biggest oil-and-natural gas producing state, claimed similar exemptions about 19,000 times this year through August, according to their chemical-disclosure reports. Data from the documents were compiled by Pivot Upstream Group, a Houston-based firm that studies the energy industry, and analyzed by Bloomberg News. Nationwide, companies withheld 1 out of every 5 chemicals they used in fracking, a separate examination of a broader database shows.

Trade-secret exemptions block information on more than five ingredients for every well in Texas, undermining the statute's purpose

of informing people about chemicals that are hauled through their communities and injected thousands of feet beneath their homes and farms, said Lon Burnam, a Democratic state representative and a co-author of the law.

"This disclosure bill has a hole big enough to drive a Mack truck through," Mr. Burnam said of the law, which he called "much compromised legislation."

Is it "meaningless because there are so many exemptions?" he said. "I'm afraid it may be."

The Texas disclosure bill marks a growing effort by the oil and gas industry to address public concerns about fracking, a drilling technique in which millions of gallons of water, sand and chemicals are pumped underground to free up more hydrocarbons. While the method has unlocked vast new sources of energy, safety questions center on the hundreds of chemicals used -- many of them known carcinogens. The federal Environmental Protection Agency has little authority to regulate fracking; Congress decided in 2005 that the bureau wouldn't oversee the practice.

The 2010 documentary film "Gasland" showed homeowners near fracked wells igniting the water that flowed from their faucets. A year later, the EPA linked fracking to contaminated drinking water in Pavillion, Wyo. The agency is retesting the Wyoming wells. A separate report from the U.S. Geological Survey this year confirmed the environmental agency's initial finding; it detected levels of methane, ethane, diesel compounds and phenol, which the EPA had identified in 2011.

Companies including Houston-based Halliburton Co. have embraced the Texas law as a model that "provides an enormous amount of information to the general public" while protecting trade secrets from competitors, said Susie McMichael, a company spokeswoman.

"Without such protection, companies would have no incentive to develop and put into use new technologies that are both environmentally beneficial and more effective," Ms. McMichael said in an email.

For neighbors of fracked wells, the omissions mean they can't use the disclosures to watch for frack fluids migrating into creeks, rivers and aquifers, because they don't know what to look for, says Adam Briggie, who is chairman of a citizen's group in Denton, Texas, called the Denton Stakeholder Drilling Advisory Group.

"We can't test to see what is coming into the environment," says Mr. Briggie, 35, who also works as an assistant professor of philosophy at the University of North Texas in Denton. "If frack fluids are so harmless, why do they hold onto these trade secrets so strongly?"

When Texas lawmakers were debating the disclosure bill, industry lobbyists made it clear that they wanted strong trade-secret protections, "but they didn't say it would be this heavily utilized," said Cyrus Reed, acting director of the Sierra Club's Lone Star chapter, who worked with companies to develop the rule. "It is disappointing to see this many trade secrets being claimed."

The law was signed by Gov. Rick Perry, a Republican, in June 2011.

Oil and gas companies are permitted to withhold disclosure of chemicals and their concentrations in any product that they claim to be a trade secret under the Texas law. Such claims can be challenged by state regulators and landowners of well sites or adjacent parcels.

Several other states that require disclosure of fracking chemicals -- including Louisiana, Montana, New Mexico and North Dakota -- also leave it up to energy companies to determine what chemicals can be labeled secrets.

Recently, more states are following the Texas model -- with an assist from industry. In December 2011, the American Legislative Exchange Council, a Washington-based public policy organization that brings together corporations and legislators to craft bills for states, adopted model legislation that is almost identical to the Texas rule.

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Outlet Full Name: News Journal - Online

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News Headline: Oregon logging road pollution case heads to U.S. Supreme Court |

Outlet Full Name: Oregonian - Online, The

News Text: Seven rainy springs ago, Mark Riskedahl and student volunteers from Lewis & Clark's law school visited the Tillamook State Forest to snag samples of muddy water washing into streams from roads used by logging trucks.

They succeeded: Their samples from the Trask and Kilchis rivers showed water "turbidity" from road runoff ranging from 34 to 971 times background levels, a potential threat to wild coastal coho on the endangered species list and to other fish.

"There was chocolate brown muddy water suddenly entering an otherwise clear stream," says Riskedahl, executive director of the Northwest Environmental Defense Center at Lewis & Clark.

They also stirred up a national fuss.

On Monday, the U.S. Supreme Court will hear arguments stemming from the lawsuit Riskedahl's group filed against Oregon's Department of Forestry and four timber companies after the sampling results came in.

The legal issue is whether -- as Riskedahl and the 9th Circuit Court of Appeals contend -- Clean Water Act "point source" permits should be required for active logging roads, just like they are for factories and feedlots, if the roads divert sediment-laden water into streams. Regulators have treated logging roads as non-point sources since the act passed in 1972.

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